

Repurposing the Foster Care Review Board to Achieve Better Results for Children and Families in our Foster Care System

Background

Foster Care Review Board Purpose:

The legislature established the Foster Care Review Board (FCRB) Program in 1984 in an effort to provide citizen oversight of the foster care system. At the time, there were not any state or federally mandated time requirements for foster care cases to achieve permanency and children would frequently languish in foster care for years with no permanent home identified. The law created the FCRB program within the State Court Administrative Office (SCAO) and required SCAO to establish the program's framework, including uniform policies and procedures, criteria for the selection of cases to be reviewed, and local board membership recruitment and training.

FCRB boards meet monthly to review foster care cases and provide a report with recommendations to the court and agency regarding the child's safety, permanency, and well-being. The law lists specific cases of children awaiting adoption (referred to as "MARE" cases), which would benefit from third party review; and also allows an interested person to request FCRB review of a case. The FCRB is also statutorily responsible for hearing foster parent appeals when the agency intends to move a child from the foster parent's home. MCL 712A.13b allows foster parents, with specified exceptions, to appeal to the FCRB when the agency proposes to move the child from their home.

The law also establishes a statutory right for foster parents to appeal an agency decision to move a foster child from their foster home, and requires the FCRB program to investigate foster parent appeals within seven days. The appeal process serves to ensure the child's move is appropriate, and to limit unnecessary changes in the foster care placement for a child. If the FCRB agrees with the agency that the child should be moved, no court action is required, thereby saving significant court time. In 2017, the FCRB heard 125 foster parent appeals statewide.

Additional Foster Care Oversight Since 1984:

In 1994, the legislature created the Office of Children's Ombudsman (OCO) to serve as another monitor of the foster care system.¹ The OCO's mission is to assure the safety and well-being of Michigan's children in need of protective services, foster care, adoption services, and juvenile justice, and to promote public confidence in the child welfare system. They achieve this through independently investigating complaints, advocating for children, and recommending changes to improve law, policy, and practice.

On the federal level, Congress passed the Adoption & Safe Families Act (ASFA) in 1997, which imposed strict time limits on family reunification efforts and a requirement for state agencies to provide reasonable efforts to preserve and reunify families. For example, for children in foster care for 15 out of the most recent 22 months, ASFA requires the agency to initiate a petition to terminate parental rights, thereby compelling the agency and court to make timely decisions about a child's permanency.² ASFA was enacted in direct response to the problem of children languishing in foster care with minimal progression towards permanency.

¹ The OCO is housed within the Michigan Department of Technology, Management and Budget.

² Exceptions are allowed on a case-by-case basis if (1) a child is being cared for by a relative; (2) the state shows a compelling reason why TPR is not in the best interest of the child; or (3) the state agency has not provided the services required by the case plan to return the child to a safe home if reasonable efforts were required.

In 2006, a national advocacy organization, Children's Rights, sued the State of Michigan for what it deemed were serious systemic deficiencies in the foster care system that inflicted harm on the children and families served by the system. As a result, since 2008, Michigan has been operating under a federal consent decree which requires very specific improvements to the foster care system. A Federal Monitor was appointed by the judge to regularly oversee Michigan's progress towards meeting the legal requirements in the settlement, and every six months, the federal court judge holds a hearing to determine compliance.

For a number of years, the FCRB was the only program to provide independent oversight of Michigan's foster care system. Thirty four years after its enactment, the FCRB program essentially operates the same, despite numerous additions in oversight and accountability of Michigan's foster care system. SCAO would like to focus the FCRB on foster parent appeals and court-requested case reviews to ensure the program is meeting our juvenile courts' needs.

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